IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.20133 of 1998

Dated: 25-04-2007

Between:

'DHYANA ASHRAM', rep. by its Trustee,
Kothuri Janaiah, s/o late Mathaiah,
r/o New Palwancha,
Khammam District.

... Petitioner

and

1. The State of Andhra Pradesh,
   rep. by its Principal Secretary to Revenue,
   Secretariat Buildings, Hyderabad and 6 others.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to declare that respondents 1 to 4 have no scope to initiate any proceedings under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act') and L.T.R. Regulation on the representation made by respondents 5 to 7.

2. Facts, in brief, are: One RT. Reverent Pereji Salmon C.S.I.

Bishop
(retired) had constituted a deed of trust on 18-04-1990 creating petitioner's trust by name 'Dhyana Ashram' at New Palvancha on 01-03-1980.

The said Salmon settled an extent of Acs.24-00 along with buildings and the benefit accrued to the said property, in favour of the said Ashram. Though the proceedings in L.Dis.No.G/8998/94, dated 07-03-1995 of third respondent – Revenue Divisional Officer and the concerned entries in the revenue records clearly show that the said Salmon was the owner of the land in question and is not attracted by the provisions of the Act, Land Transfer Rules and Regulations, respondents 5 to 7 approached fourth respondent – Mandal Revenue Officer claiming that it is a Government assigned land and are making hectic attempts to forcibly occupy the trust property.

3. Heard learned counsel for the parties.

4. This Court on 22-07-1998 while issuing *Rule nisi,*
in W.P.M.P.No.24083 of 1998 granted interim order directing respondents not to interfere with the charitable activities of the trust being conducted in the buildings i.e. school and hostel in an extent of Acs.24-00 in Sy.No.817 situated at New Palwancha, Palwancha Mandal, Khammam District.

5. The Government has come forward with a counter affidavit in W.V.M.P.No.3034 of 1998 stating that the land in question is situated in Sy.No.817/8-8 but not in Sy.No.817 as contended by learned counsel for petitioner and requested this Court to vacate the said interim order.

This Court having heard both the learned counsel passed the following order in W.P.M.P.No.24083 of 1998 and W.V.M.P.No.3034 of

1998—

> "The case of petitioners is more or less admitted in para 4 of the counter-affidavit, inasmuch as the deed of trust dt.18-4-90 executed by P. Salmon in favour of the petitioner is not disputed. The only dispute is regarding the identity of the property in question. According to the petitioners, it is part of S.No.817, whereas the contesting respondents are contending that it is S.No.817/8-8. The question of identity will have to be gone into in main writ petition."

With the said observations this Court made the interim order, granted on 22-07-1998 in W.P.M.P.No.24083 of 1998, absolute on 07-10-1998.

6. According to learned counsel for petitioner though petitioner has nothing to do with the assignment, the official respondents are resorting to the provisions of the Act and L.T.R Regulation, on the applications made by respondents 5 to 7.

7. If really, it is a fact that the land in question is a Government assigned land and respondents are trying to interfere with petitioner's possession, they have to do strictly in accordance with law i.e. issuance of notice to petitioner and opportunity of hearing etc.,

8. In that view of the matter, I deem it appropriate to dispose of the writ petition with a direction to respondents to follow due process under law before interfering with the possession of petitioner in respect of the land in question. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

9. Accordingly, this writ petition is disposed of. No costs.

Having regard to the fact that this Court at the time of issuing *Rule nisi* granted interim order directing respondents not to interfere with the charitable activities of the trust being conducted in petitioner's

buildings i.e. school and hostel in an extent of Acs.24-00 in Sy.No.817 situated at New Palwancha, Palwancha Mandal, Khammam District, respondents are directed not to interfere with the peaceful possession of petitioner till the said exercise is done.

JUSTICE GOPALAKRISHNA TAMADA

Dt.25-04-2007
GLV